

**Memphis and Shelby County
Metropolitan Government Charter Commission**

**Minutes
6th Meeting
January 21, 2010
4:00 p.m.**

Commission members present:

Julie Ellis, Chairperson
Lou Etta Burkins, Secretary/Treasurer
Andre Fowlkes, Vice Chairman
Damon Griffin
Mayor Richard Hodges
Chris Patterson
Carmen Sandoval
Rev. Ralph White
Rufus Washington
J. W. Gibson
Dr. Randolph Meade Walker

Commission members absent:

Linda Kerley
Richard Smith
Billy Orgel
Jim Strickland

Others present:

Harvey Kennedy, Sheriff's Office
Kim Hackney, Sheriff's Office
Christy Kinard, Assistant Co. Attorney
Matt Kuhn, Assistant to Co. Mayor
Kelly Rayne, Assistant to Memphis Mayor
Jack Payne, Jr., Assistant City Attorney
Carl Miller
Scott J. Sigman, Memphis Chamber
Brian Stephens, Rebuilding Government
Zach McMillan, Rebuilding Government
Davida Cruthird
John Branston

Mayor Sharon Goldsworthy, Germantown
Mike Palazzolo, Germantown Alderman
Patrick Lawton, Germantown
Mayor Keith McDonald, Bartlett
Gary Graves, Millington
Robert Wherry, Lakeland
John Pellicciotte, Co. Commissioner
Bill Dries
Robert Huber
Mita Garrett
Daniel Connolly

The January 21, 2010 Metro Charter Commission meeting commenced with a moment of silence

Chairman Ellis called the roll

Minutes from 12/17/09 deferred until later today. The 01/14/10 minutes were distributed and Commissioner Walker moved approval, seconded by Commissioner Washington – the 01/14/10 minutes were approved w/out objection

Administrative Update – Kelly Rayne and Matt Kuhn

Parking is a problem. The Charter Commissioners are on the list to park in the garage but the Mayor's Task Forces also meet on Thursdays so demand is high.

The Metro Charter webpage is accessible through 2 areas on the Shelby County website. It is listed in the Boards and Commissions and there is a Metro Charter Commission page link on Shelby County homepage. The Metro Charter Commission now has its own page up on SIRE for meeting materials and we will have live streaming through Granicus next meeting.

Task Forces, please let us know if you need help with meeting space, dates, etc.

Ellis – costs for copies of Charter to distribute per statute and materials for the public will cost much less than anticipated.

Report by Commissioner Fowlkes - End Goals and Deliverables

The Charter document will create better efficiencies and improvements across the county.

The highest 4 Commissioner recommendations of end goals are Economic Development (job creation, retention, etc.) - 16 votes; Safer Community - 9 votes; Efficient and Ethical Government; Service Delivery; Tax Efficiency mentioned.

Quote from Benjamin Freedman re: effect of economic growth v. stagnation.

While the Task Forces are doing their work, ask yourselves, what state is Memphis and Shelby County currently in regarding this area? Think of that going forward.

Washington – seems like you are saying these concepts and the Commission values should be encompassed in the new Charter.

Fowlkes – yes, and we always want to consider the input of the public as well as the Commission.

Ellis – Economic growth in conjunction w/ development can be viewed negatively. We want to foster good growth and planning.

White – better educational system should be included and near top of the list of goals.

Walker – the quote. Education is critical to economic growth. Growth will not happen on its own. We need the framework of education for growth to occur. City education achievement is poor. Memphis will not improve until education performance improves.

Presentation of City and County Government Structure and Legislative Authority

Christy Kinard offered to analyze city and county government organizations as well as the Boards and Commissions. The document is available to the public upon request. State statute says if current bodies are not readopted in the new charter, they will cease to exist unless recreated by ordinance.

Kinard – handed out document that explains city and county government structure starting with the county charter – Mayor and County Commission form of government. Next covers legislative branch - members, districts, term limits, qualifications to hold office, prohibitions, etc.

Ellis – please hit highpoints of what needs to be in the Charter, per Strickland’s request.

Kinard – this document highlights and tells authority. What Strickland wants will be identified John Ryder’s draft charter.

Kinard – discussed County Commission structure, how vacancies filled, Commission officers and employees created by Charter and Rules of Order. EEOC Office, Beer Board and Chief Probation Officer all under legislative branch. County Commission can appoint temporary advisory boards.

Same information for Executive Branch as to structure, etc. – County CAO is appointed by the Mayor, County Commission concurs. Non-conflicting 1974 Private Act were integrated into the County Charter.

Divisions and Departments – can be created by the Mayor, approved by County Commission, or can be created by ordinance. Divisions and Boards duties and functions outlined. Some Boards are staffed by county employees or need County Commission budget approval. Think about this information in your Task Force work.

Division Directors and qualifications listed, the County Attorney is appointed by the Mayor and approved by the County Commission. The County Attorney is the Chief Legal Officer – all Shelby County lawyers forfeit office if suspended by the Boards of Professional Responsibility – County Attorney staff provided for by ordinance.

Ethics Officer – Ethics Ordinance required as of 2007. County Attorney appoints an Assistant County Attorney as to serve as Ethics Officer.

Public Defender – created by Private Act incorporated into County Charter. The state requires a Public Defender for all counties. We are putting together state law referring to

the Public Defender, Divorce Referee, etc. for the Law Task Force to consider. For example, the Divorce Referee only exists in Shelby County. Do we need to keep this provision?

Mayor may employ, appoint, suspend and remove individuals. Some employees could not be found in the Charter or ordinances – some report to Mayor, many report to CAO. Mayor may also appoint temporary advisory boards. Mayor and County Commission Chair are required to serve on certain Boards. The Mayor nominates most Boards and Commissions and may remove members.

Section D – County Charter Officers – replaces Constitutional County Officers and goes into effect 2010 (Assessor in 2012). General info and citations included.

Judicial Branch – citations to state statute, County Charter and Code. Discussed county courts and clerks, creation of Division 8 Drug Court and Division 14 Environmental Court and Juvenile Court history.

General Provision outlined, i.e. 1974 Restructure Act carried over into Charter. Private Acts not conflicting with charter were used to create ordinances.

Discussed officers, civil service, residency. County School Board is exempt. Conflict of interest and anti-nepotism (can employ no more than 1 relative) provisions.

Looked at TCA for provisions regarding Metro Government. Please refer to these provisions in your Task Force work.

Will give more info on Boards in the future.

Gibson – is the County Mayor term limited? Kinard – yes, 2 consecutive 4 year terms. Gibson – you need to correct page 2.

Washington – what is a Private Act? Kinard – a Public Act is codified in the TCA, is a general law. A Private Act applies only to those who want it, for example Shelby County, who will then ratify the Act. Washington – I understand we cannot change some designation for constitutional officers, but we can change their duties. Kinard – Constitutional v. Charter Officers – the 5 Constitutional Officers existed for 25 years, when the County drafted the Charter, they believed these officers did not need to be included. The TN Supreme Court ruled that you needed to put those officers in your Charter if you want them to exist or assign their functions elsewhere. Knox County did a referendum to re-create these officers. Shelby County did the same.

Ellis – is pension fund management in Finance administration? Kinard – yes. Ellis - Bonding authority for Boards? Kinard – some Boards may issue bonds, but we don't have those details here. We can have Task Forces look at this.

Payne – city structure outline. Home Rule adopted 1968. Mayor Council form of government. Council is 13 members, Districts 1-7, Super Districts 8 and 9. (**contrary to presentation, City Council term limits begin with the 2012 term – 2 consecutive 4 year terms*). Councilmembers elect a Chair and Vice Chair each November for the coming year. Chairman appoints Council office staff.

City EEO with Human Resources, not the legislative division. EEO officer appointed by the Mayor and approved by the Council.

Executive – Mayor – must devote entire time and attention to the office. (**contrary to presentation, term limited as of 2012 – 2 consecutive 4 year terms*). In case of a vacancy in office of Mayor, the Council Chair will serve until an election can be held.

CAO appointed by Mayor, approved by Council but may dismiss without approval. City Divisions and all employees under authority of the Mayor.

Some City Divisions outlined in the Charter but this has changed over time. Divisions may be created by ordinance. Divisions include Finance, Human Resources, Public Services and Neighborhoods, Public Works, etc.

Division Directors are appointed by the Mayor and require Council approval. Directors term of office is the same as appointing mayor.

City Attorney is the head of the Law Division and is appointed and approved in the same manner as Division Directors. Number of Assistant City Attorneys employed may be determined by the Council.

City Court Clerk – is elected official, responsibility of a Division Director. Document and minute keeper.

Employees – Civil Service Commission can only sustain, uphold or reverse a dismissal decision.

Mayor appoints Board and Commission members, subject to council approval.

Employees are required to live in the city.

Ellis – requests a list of Boards and Commissions.

Washington – will that list be different than what we already have?

Kinard – we sent a list of the Boards on Commissions website, then the list was supplemented later. We will resubmit and you will then get a complete spreadsheet.

Gibson – term limits on boards? Payne – only for a few. Will the updated list have that info? Gibson – how can staggered terms apply to individuals?

Task Force – Review Assignments / Meetings / Reports

Ellis – Kerley cannot take on Human Services because of health issues. Request someone volunteer. Will work closely with the Financial Task Force. Table until next meeting.

Gibson – will Ms. Kerley be able to continue to serve? Ellis – she feels that she can but not in the role of chair.

Ellis – Washington, Public Safety Task Force

Washington – daunting task, approaching in 5 phases. First phase is administration / identify resources - have attorney assigned and 2 members - Hodges and Gibson. Need help disseminating information, we have secured a person to record audio and take minutes. Need people from MPD, Sheriff and Fire Departments to serve as liaisons to this Task Force and we have made this to request – also Homeland Security, EMA. Representatives from the Bargaining Units will be designated as ex officio members. Moving to phase 2, situation phase – 1st meeting. Will hold meetings to 1 hour in length, will outline specifics that will be addressed. Phase 3 will be coordination – schedule 2 presentations per meeting, starting with the Public Safety Commission, then fire department. Then we will brief the Commission. Phase 4 will be presenting a recommendation to the commission which will be adopted or rejected. Stage 5 conclusions that will be adopted or rejected.

Objectives - need to determine what services provided, legislative authority, budget, effectiveness, consolidation effect. Fragmented law enforcement. Will consolidation save money, realize other benefits? Chief officer elected or appointed?

Have agenda for first meeting (Jan 26th, Mullins Station Code Enforcement building, every Tuesday thereafter) with contact info. Must make recommendation to the Charter Commission 03/31/10. We request members be on time, succinct and considerate.

Roundtable Discussion re: information needed from consideration by the Commission from the six cities which will remain under a Metro Government

Ellis – we have had excellent cooperation from city and county Mayors. Chair intended to reach out to the other mayors. Appreciate their attendance. Their cities will remain if new charter adopted. We respect their continuity and elected officials. Would like to hold meetings in these communities as well. What does the Commission need to know from the suburban mayors?

We need to determine services and costs. The questions passed out is for suburban Mayors to educate the Commission about services provided by the county to these cities and what services the small cities provide themselves. Honor the value of diversity of needs. How do we raise everyone up? Learn from suburban cities.

Professional management of cities – those running city should be proficient and skilled.
Consolidated financials – cost very important to all citizens

Examine use of outside contractors / consultants

Branches of government? Size of legislative body? Full time mayor? Pension system?
Courts?

Relationships to Memphis and Shelby County? Citizens work in Memphis?

Assuming metro government is approved, what representation do you advise?

Impact of growth of Memphis on the smaller cities?

Hodges – talked with Mayors of the smaller cities and have a list of their concerns. Ex: Millington is covering Shelby County fire responsibilities and has received no information on the possible city and county Fire Departments merger. The municipalities feel excluded. Mayor Ford has met with the smaller cities and wants to continue to do so.

Washington – this list just your concerns? Hodges – no, have input from other Mayors. Share many concerns re: our tax rate, services, reserve area, EMS, schools, municipalities “held hostage” by MLGW? Is Memphis Tomorrow sponsoring Rebuilding Government? Concern community education efforts are skewed toward approving metro government. Want alternative voices to be heard.

Mayor McDonald – MLGW city ownership prohibits other municipalities’ voice – have no spot on MLGW Board. Will Metro government change this? Feel second class without a spot on the MLGW Board.

Washington – Wharton said no one from Shelby County on MLGW Board either – this is a concern.

Fowlkes – Task Forces can address these concerns. Good dialogue necessary. Want more feedback and concerns.

Sandoval – we need this type of feedback from these communities and their leaders. Inclusiveness one of the first priorities. We need to act as a region to thrive. Hope to continue hearing from the municipalities.

Hodges – Ford meeting with other Mayors is very good. We agree to disagree on a lot of things, but what we can agree on and is good for the whole county, we need to support and ask our citizens to support too.

White – I still have a problem with excluding the schools. This is key and why is this issue being guarded?

Ellis – we voted to exclude the schools from this charter, but we can talk about funding. Maybe that can be addressed down the road, but this body will not address consolidating schools.

Patterson – echo that schools are not going to be addressed and talking about including schools doesn't garner favor with some citizens. Including schools will doom the work of the Commission.

White – the municipal Mayors raised this issue in their list.

Ellis – Hodges, please communicate our questions to the municipal Mayors and have your Task Force address.

Items of discussion for next meeting

Ellis – minutes from 12/17/09 distributed. We will approve at the Feb 4th meeting.

General Counsel of Jacksonville coming next meeting

Other issues next meeting? Please send if you think of anything.

Comments from public

Bob Huber – Northwest unincorporated Shelby County “watch dog.” concerns re: Public Act 1101, 1998 re: annexation – where does the Commission stand? Viable with Metro government? Fees for services – 911, vector control, storm water, etc. – want oversight for these services. Want fee increases to be approved by the legislative body.

Ellis – Intergovernmental Task Force work on annexation. Emergency Task Force on 911. County Attorney opinion re: annexation coming. Financial Task Force looking at fees and services provided.

McDonald – will send more questions in 2 weeks and ask a certain Task Force to address. Will have by Feb 9th meeting with Mayor Ford if not, by the Feb 4th Commission meeting.

Adjourned 6:10